



15 SEP 2006

Susan M. Pellegrino  
Bayer Pharmaceuticals Corporation  
400 Morgan Lane  
West Haven, CT 06516-4175

|                                      |   |                       |
|--------------------------------------|---|-----------------------|
| In re Application of                 | : |                       |
| HANING, et al.                       | : |                       |
| Application No.: 10/519,129          | : | DECISION ON PETITION  |
| PCT No.: PCT/EP03/06611              | : |                       |
| Int. Filing Date: 24 June 2003       | : | UNDER 37 CFR 1.497(d) |
| Priority Date: 03 July 2002          | : |                       |
| Atty. Docket No.: Le A 36 197        | : |                       |
| For: NOVEL USE OF IMIDAZOTRIAZINONES | : |                       |

This decision is in response to applicant's "Response to Decision on Papers Under 37 CFR 1.42" filed 14 August 2006 in the United States Patent and Trademark Office (USPTO). The petition is being treated as a request under 37 CFR 1.497(d).

### **BACKGROUND**

On 13 February 2006, applicant was mailed a decision dismissing applicant's request for status under 37 CFR 1.42. Applicant was afforded two months to file any request for reconsideration and advised that this period could be extended pursuant to 37 CFR 1.136(a).

On 14 August 2006, applicant filed the present request which is being treated as a petition under 37 CFR 1.497(d) accompanied by a petition for a four-month extension of time and payment of the appropriate extension of time fee.

### **DISCUSSION**

37 CFR 1.497(d) [formally, 37 CFR 1.48] states in part: "If the oath or declaration filed pursuant to 35 U.S.C. 371(c)(4) and this section names an inventive entity different from the inventive entity set forth in the international application....applicant must submit:

- (1) a statement from each person being added or deleted as an inventor that the error in inventorship occurred without any deceptive intention on his or her part;
- (2) the fee set forth in 37 CFR 1.17(i); and
- (3) if an assignment has been executed by any of the original named inventors, the written consent of the assignee in compliance with 37 CFR 3.73(b); and

- (4) any new oath or declaration required by paragraph (f) of this section.

Applicant has satisfied items (1), (2) and (4).

Regarding item (3), applicant has not included a statement from the assignee consenting to the deletion of Maria Niewohner as an inventor.

In light of the above, it is not possible to grant applicant's petition at this time.

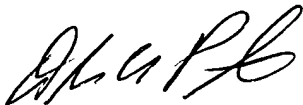
A decision on the request for status under 37 CFR 1.42 will be held in abeyance pending the consent of the assignee to delete Ms. Niewohner.

### CONCLUSION

For the reasons above, applicant's request under 37 CFR 1.497(d) is **DISMISSED** without prejudice.

Applicant is hereby afforded **TWO (2) MONTHS** from the mail date of this decision to file any request for reconsideration. Any reconsideration request should include a cover letter entitled, "Renewed Petition Under 37 CFR 1.497(d)." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be directed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



Derek A. Putonen  
Attorney Advisor  
Office of PCT Legal Administration  
Tel: (571) 272-3294  
Fax: (571) 273-0459